

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA**

GUEDDY VACA

120470 Elliots Oak Place
Bristow, Virginia 20136

Plaintiff,

 \mathbf{y}_i

UNITED STATES OF AMERICA

Serve: G. Zachary Terwilliger
United States Attorney for
the Eastern District of Virginia
2100 Jamieson Avenue
Alexandria, Virginia 22314

ALSO SERVE:

Matthew G. Whitaker
Acting Attorney General of the United
States
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-0001

Defendant.

COMPLAINT

COMES NOW Plaintiff, Gueddy Vaca, by and through her attorneys Diana Pak Yi and Jezic & Moyse, LLC, hereby sues the United States of America, Defendant, and as grounds states as follows:

1. This is an action against the Defendant, United States of America, pursuant to the Federal Tort Claims Act, (28 U.S.C. §2671, *et. seq.*), 28 U.S.C. §1346(b)(1), and 28 U.S.C. §2401(b). 28 U.S.C. 2401(b), 39 CFR 912.9(a), and 28 U.S.C. § 1346(b)(1).

2. All of the events giving rise to the Plaintiff's claim occurred within the Commonwealth of Virginia, and venue is proper in this District pursuant to 28 U.S.C. §1391(e)(1) and 28 U.S.C. §1402(b).
3. At all times relevant and referred to herein, the United States Department of State is a federal agency within the meaning of 28 U.S.C. §2671.
4. Plaintiff has fully complied with the provisions of 28 U.S.C. §2675, of the Federal Tort Claims Act by filing a separate Standard Form 95 for the Plaintiff's claim on May 17, 2017.
5. To date, Plaintiff has not received a notice of final denial for Plaintiff's claim via certified mail.
6. This lawsuit has been timely filed in that Plaintiff timely commenced a civil action against a federal employee within two years of the underlying incident, and Plaintiff presented the administrative claim to the appropriate agency within 60 days of dismissal of that civil action after substitution of the United States under the Westfall Act in accordance with 28 U.S.C. § 2679(d)(5).
7. Pursuant to 28 U.S.C. §1346(b), any and all negligence of Defendant's employee, while operating a motor vehicle and while acting within the course of and within the scope of his/her employment with the United States, is imputed to the United States of America.

FACTS COMMON TO ALL COUNTS

8. That on or about February 28, 2015, the Plaintiff, Gueddy Vaca, was operating her motor vehicle in a careful and prudent manner northbound on I-495 at or near the intersection with Route 50 near Falls Church, Fairfax County, Virginia.
9. That on that date and at that time, Elizabeth Marie Estela ("Ms. Estela"), was operating a vehicle directly behind Plaintiff.

10. That Ms. Estela was employed by the Defendant and was acting within the scope of her employment with the Defendant and Defendant is responsible for those acts performed within the scope of Ms. Estela's employment.

11. That, suddenly and without warning or notice, the vehicle operated by Ms. Estela and owned by the Defendant crashed into the rear of Plaintiff's vehicle.

COUNT 1 - NEGLIGENCE

12. Plaintiff incorporates herein by reference the factual allegations set forth in paragraphs 1 through 11 as fully as if set forth at length herein.

13. That at all times relevant and referred to herein, Defendant's agent, servant and/or employee owed a duty to operate her motor vehicle in a safe and reasonable manner.

14. That the Defendant's agent, servant and/or employee breached said duty to the Plaintiff when she was careless and negligent in that she did not have her vehicle under proper and sufficient control, failed to pay full time and attention, failed to observe the presence and proximity of the Plaintiff's vehicle, failed to yield the right of way to Plaintiff's vehicle, and was in other respects, careless, reckless and negligent.

15. That Plaintiff was not negligent and did not contribute to the aforementioned motor vehicle collision in any manner.

16. That as a direct and proximate result of the collision caused by the negligence of the Defendant, by and through its agent, servant and/or employee, as aforementioned, Plaintiff suffered mental and physical pain; sustained injuries to his body, was required to obtain medical and hospital care and treatment in the past and continues to incur medical and hospital expenses for her necessary and reasonable medical care; has suffered, and may in

the future suffer a loss of earnings and/or earnings capacity; and she has suffered, and may in the future, suffer pain and losses.

WHEREFORE, Plaintiff Gueddy Vaca prays this honorable Court and demands Judgment of and against the Defendant in the amount of Three Hundred Thousand Dollars (\$300,000.00), in compensatory damages, plus interest and costs, and such other relief as this Court deems appropriate.

_____/s/_____
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